

APPENDIX D

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APPENDIX D

SAMPLE TRANSCRIPT

Explanatory Note

The following pages illustrate a portion of a sample transcript, table of contents and index of exhibit volume and samples of exhibit sheets and a witness and exhibit list.

See Chapter 5 for the Appellate Rules concerning preparation of transcripts.

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IN THE
INDIANA COURT OF APPEALS

APPELLATE NO:

JOHN DOE,
APPELLANT/PARTY BELOW

VS

STATE OF INDIANA,
APPELLEE/PARTY BELOW

] APPEAL FROM THE _____
] SUPERIOR COURT
]
] TRIAL COURT CASE NO.:
] _____
]
] BEFORE THE HONORABLE
] _____, JUDGE

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MR. ATTORNEY NAME	MR. ATTORNEY NAME
CHIEF DEPUTY PROSECUTOR	PUBLIC DEFENDER
ADDRESS	ADDRESS
CITY, STATE, ZIP	CITY, STATE, ZIP
PHONE	PHONE

JANE THOMAS
OFFICIAL COURT REPORTER
SUPERIOR COURT

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IN THE
INDIANA COURT OF APPEALS

APPELLATE NO: _____

JOHN DOE,
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VS

STATE OF INDIANA,
APPELLEE/PARTY BELOW

] APPEAL FROM THE _____
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] TRIAL COURT CASE NO.:
] _____
]
] BEFORE THE HONORABLE _____, JUDGE

TRANSCRIPT OF EVIDENCE

VOLUME I OF VII

PAGES 1 to 250

ATTORNEY FOR APPELLEE:	ATTORNEY FOR APPELLANT:
MR. ATTORNEY NAME	MR. ATTORNEY NAME
CHIEF DEPUTY PROSECUTOR	PUBLIC DEFENDER
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JANE THOMAS
OFFICIAL COURT REPORTER

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_____ SUPERIOR COURT
STATE OF INDIANA)
) SS:
COUNTY OF _____)

IN THE _____ SUPERIOR COURT
CAUSE NO.: _____

STATE OF INDIANA,)
)
Plaintiff)
VS)
)
JOHN DOE,)
Defendant)

TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE _____
JUDGE OF THE _____ SUPERIOR COURT

DATE: JANUARY 22-25,28-31; FEBRUARY 1,4-8, 2003

JANE THOMAS

APPEARANCES

OFFICIAL COURT REPORTER

A P P E A R A N C E S

ON BEHALF OF THE STATE:

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CITY, STATE ZIP

MS. ATTORNEY NAME
CHIEF DEPUTY PROSECUTOR
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ON BEHALF OF THE DEFENDANT:

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VOIR DIRE

**THE COURT CONVENED ON JANUARY 8, 2003, AND THE
FOLLOWING EVIDENCE WAS PRESENTED:**

PRESENT:

JUDGE NAME, Judge _____ Superior Court

MR. ATTORNEY NAME, Prosecutor

MS. ATTORNEY NAME, Chief Deputy Prosecutor

MR. ATTORNEY NAME, Counsel for Defendant

MR. ATTORNEY NAME, Chief Public Defender

John Doe, Defendant

THE COURT: State v John Doe, 0010-CF-343. Would
all the juror panel members please stand and raise your
right hand. Do you, and each of you, solemnly swear or
affirm under the penalties of perjury that you will
give true answers to all questions put to you
concerning your qualifications to sit as jurors in this
case at issue, and which now is the subject of trial,
so help you god?

PROSPECTIVE JURORS: I do. (All answer in unison)

MS. BAILIFF: If I mispronounce your name please
let me know. Juror No. 1, JURY NAME. Juror No. 3,
JURY NAME.

VOIR DIRE

1 [CONTINUOUS TEXT IN SEATING JURORS]

2

3 **VOIR DIRE CONDUCTED:**

4 MR. ATTORNEY: This is the portion of the trial
5 called jury selection and that's what we're here today
6 to do now.

7 MR. ATTORNEY: Okay. So the crime investigation,
8 you believe that it can be an ongoing process that may
9 go right up to the moment of trial?

10 JUROR NO. 3: Yes.

11 MR. ATTORNEY: Is that a fair answer, does everyone
12 agree with Ms. JUROR NAME at that point? Mr. JUROR
13 NAME, if you had evidence of a criminal act and you
14 were asked to reveal any of that information to
15 authorities, would you feel obligated to do so, turn it
16 over to a law enforcement agency that requested it?

17 JUROR NO. 39: Yeah.

18 MR. ATTORNEY: What if the information could make
19 you look bad or embarrass you. Would you still feel
20 obligated to turn it over?

21 JUROR NO. 39: Well, yes. Should anyway, but yes,
22 even if it looked bad I'd still turnt [sic] it over.

23 MR. ATTORNEY: What if, what if that information
24 would either convict or would incriminate? What if it

25

VOIR DIRE

1 would incriminate a family member? Would that change
2 whether or not you turn it over?

3 JUROR NO. 39: It might, hard to say.

4 MR. ATTORNEY: All right.

5 JUROR NO. 39: But I, yes, feel I should.

6 MR. ATTORNEY: Okay, fair answer. Ms. JUROR NAME?

7 JUROR NO. 49: Well, I'd have to assess the
8 situation.

9 MR. ATTORNEY: If it would incriminate a family
10 member?

11 JUROR NO. 49: Yes, but would be hard.

12 MR. ATTORNEY: Mr. JUROR NAME, how about you? Have
13 you ever been put in that situation?

14 JUROR NO. 7: It'd be hard to do and I'm not sure
15 what I would do. I hope I could. I do and am law
16 abiding and want to do the right thing. I would think
17 I would do the right thing.

18 MR. ATTORNEY: Mr. JUROR NAME?

19 JUROR NO. 13: I think I could and would.

20 MR. ATTORNEY: Well, how about if it's one of your
21 family?

22 JUROR NO. 7: I would turn it over to the cops.
23 There wouldn't be anything to keep me from turning it
24 in.

25

STATE'S WITNESS - WITNESS #1 NAME (DIRECT)

MR. ATTORNEY: Mr. JUROR NAME?

JUROR NO. 21: The same, I'd turn it over.

[CONTINUOUS TEXT IN VOIR DIRE]

PANEL OF 12 JURORS & 3 ALTERNATES SELECTED & SWORN

JURY ADMONISHED & RECESS FOR DAY

COURT RECONVENES:

COURT REPORTER/BAILIFF: You may be seated, the jurors are in the box.

THE COURT: First witness?

STATE PRESENTS ITS EVIDENCE

MR. ATTORNEY: The State would call Andrew Lee.

THE COURT: Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

WITNESS: I do.

THE COURT: Please be seated and move up to the microphone.

WITNESS: Thank you.

TESTIMONY OF WITNESS #1 NAME

DIRECT EXAMINATION:

STATE'S WITNESS - WITNESS #1 NAME (DIRECT)

1 BY: MR. ATTORNEY NAME

2 Q For the record, would you state your name, please?

3 A TROOPER NAME.

4 Q What's your occupation?

5 A I'm a Trooper with the Indiana State Police.

6 Q How long have you been so employed?

7 A Just over eight years.

8 Q Were you employed with the Indiana State Police on

9 September 28, 2000?

10 A Yes, I was.

11 Q Do you remember a phone call coming in September

12 28, 2000, around 9:30?

13 A Yes, I do.

14 Q Who was the phone call from?

15 A It was from David Doe.

16 Q And did you, hear the phone call?

17 A Yes, I did.

18 Q You received it?

19 A Actually, it was transferred to me.

20 Q And you talked to who? Who was on the phone?

21 A Oh, Mr. Doe was on the phone.

22 Q I'll hand you what's been, it's not been marked

23 yet, what's been marked as State Exhibit No. 1 and

24 ask if you recognize this?

25

STATE'S WITNESS - WITNESS #1 NAME (PRELIMINARY)

1 A It appears to be an audiotape recorded from the
2 master tape at the Post.

3 Q Have you recently had occasion to review it?

4 A Yes, I have.

5 Q Is it a true and accurate reflection of the
6 conversation you had with, David Doe?

7 A Yes, it is.

8 MR. ATTORNEY: At this time, Your Honor, the
9 State would move State's Exhibit No. 1 into
10 evidence and publish it to the jury.

11 MR. ATTORNEY: Preliminary question, please?

12 MR. ATTORNEY: Yes.

13

14 **PRELIMINARY QUESTIONS:**

15 BY: MR. ATTORNEY NAME

16 Q WITNESS NAME, the tape that you've listened to,
17 does it have, uh, the person picking up the phone
18 call originally, when Mr. Doe would have called in
19 or does it just have your conversation?

20 A I think it has the, the one that I listened to has
21 the original.

22 Q And do you know who would have picked the phone up
23 originally?

24 A It was a dispatcher, Pat.

25

STATE'S WITNESS - WITNESS #1 NAME (CROSS)

1 Q All right. Okay. So the voices we would hear on
2 this tape would be Pat's, John's and yours?

3 A Yes.

4 Q All right. And the best of your recollection this
5 is as accurate a tape-recording that exists,
6 right?

7 A As far as I know.

8 Q Okay. Thank you.

9 MR. ATTORNEY: I have no further preliminary
10 questions and no objection, Your Honor.

11 THE COURT: Exhibit 1 will be admitted.

12 **STATE'S EXHIBIT 1 ADMITTED INTO EVIDENCE**

13 **STATE'S EXHIBIT 1 PLAYED TO JURY**

14

15 MR. ATTORNEY: You may ask Mr. Attorney.

16 MR. ATTORNEY: Thank you.

17

18 **CROSS EXAMINATION:**

19 BY: MR. ATTORNEY NAME

20 Q How long had you known John?

21 A I'm sorry?

22 Q How long have you known John?

23 A I first met him when I transferred to the District
24 in, it would have been March of 1995.

25

STATE'S WITNESS - WITNESS #1 NAME (CROSS)

1 Q Now, I understand you have a scheduled matter out
2 of town here in the next week or so, is that
3 right?

4 A Yes, Sir.

5 Q All right. Will you be back at the end of that
6 time?

7 A Yes, I will.

8 Q All right. Beyond the scope of what you were
9 asked, but did you have any other involvement in
10 the investigation of this case?

11 A I performed a dive operation and I followed a
12 vehicle to Evansville to the lab one day. Other
13 than that, that's all.

14 Q All right. We may talk about that when you get
15 back next week. I understand you need to get out
16 of town this afternoon, is that right?

17 A Yes, Sir.

18 Q All right.

19 MR. ATTORNEY: Would release, subject to
20 recall, if that's all right with the State and the
21 Court, Your Honor?

22 MR. ATTORNEY: Yes.

23 THE COURT: Anything else? All right.

24 WITNESS: Thank you.
25

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 THE COURT: You may step down.

2 WITNESS: Thank you.

3 **WITNESS EXCUSED**

4

5 MR. ATTORNEY: The State would call WITNESS #2
6 NAME.

7 THE COURT: Raise your right hand. Do you
8 swear to tell the truth, the whole truth and
9 nothing but the truth, so help you God?

10 WITNESS: I do.

11 THE COURT: Please be seated and move up to
12 the microphone.

13

14 **TESTIMONY OF WITNESS #2 NAME:**

15 **DIRECT EXAMINATION:**

16 BY: MR. ATTORNEY NAME

17 Q For the record, state your name, please.

18 A WITNESS NAME.

19 Q And your occupation?

20 A I'm a meteorologist.

21 Q How long have you been so employed?

22 A Thirty-two years.

23 Q And where have you been employed?

24 A The past thirty-two years at WAVE television in
25

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 Louisville.

2 Q You're the weatherman?

3 A I am, one of them.

4 Q Would you have records that would tell us the
5 weather and astronomical conditions on September
6 28, 2000?

7 A Yes.

8 Q Around 6:00 p.m. through 9:00 p.m., can you tell
9 us the temperature?

10 A At six o'clock it was sixty-six degrees (66°) and
11 slowing fell down to the, [four (4) words
12 indiscernible] by ten o'clock down to fifty-nine
13 degrees (59°). I think it was sixty-six, sixty-
14 six, sixty-five and sixty-three and sixty-nine
15 during those hours. I can get that precisely here
16 if you wish. [five (5) seconds inaudible]

17 Q It would be nice.

18 A I know it started at sixty-six and ended at fifty-
19 nine by ten o'clock. So it went, it went, let's
20 see, six o'clock it was sixty-six, then seven
21 o'clock was sixty-five, sixty-three, and these
22 are, of course, Louisville International Airport,
23 so it would have been perhaps probably, or in
24 Floyd County, particularly up in the Georgetown

25

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 area, it would have been a couple degrees colder
2 then that.

3 Q And when was sunset?

4 A Sunset, according to the US Naval Observatory,
5 which does the calculations for, those things, for
6 Georgetown, Indiana, September 28th, the sunset is
7 at 7:32 p.m.

8 Q And is there a period of twilight.

9 A There is something which is defined as civil
10 twilight, which is, basically it lasts until the
11 sun is six degrees below the horizon. At the end
12 of civil twilight it's considered that anything
13 you would do normally under daylight conditions
14 would cease at that point. There is theoretically
15 enough light if you're situated, well, to be able
16 to read a newspaper throughout that time, and at
17 the end of civil twilight that, you go to
18 nighttime conditions.

19 Q So six, 7:32, that's Eastern Daylight time?

20 A Eastern Daylight Time, that was sunset.

21 Q Set. And when would the civil twilight have been?

22 A That night it was twenty-six minutes later, which
23 would have been 7:58.

24 Q 7:58.

25

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 A P.m., Eastern Daylight Time, right.

2 Q What was the humidity?

3 A Humidity was pretty low. The air was pretty dry
4 at that time. At six o'clock it was sixty-three
5 percent (63%) and when to sixty-five at seven,
6 sixty-seven percent (67%) at eight o'clock, and
7 seventy-two percent (72%) by nine o'clock.

8 Q Do you know anything, is it within your area of
9 expertise to, based on temperature and position,
10 let's say down a hill or in a hollow, to know
11 anything about how sound could travel?

12 A Usually in the evening hours, under relatively
13 calm conditions, this was particularly after,
14 getting close to sunset, around 7:30 or so, when
15 the wind has calmed down you tend to get a little
16 bit colder in the, valleys, the cold air kind of
17 drains into those areas and sometimes you get
18 what's called an inversion over top of that which
19 tends to let sound travel horizontally, but not
20 too much vertically. It's similar to what you
21 have in the wintertime particularly like on a snow
22 case. So when it snows sound travels, it's
23 muffled by the snow, but it travels horizontally,
24 but very little vertically.

25

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 Q And would it travel over the terrain?

2 A Hmm. Speculation here, but I would assume right
3 at that time ...

4 MR. ATTORNEY: I would probably have an
5 objection to the speculation.

6 A Well, let's ...

7 THE COURT: Just a minute.

8 WITNESS: Sure.

9 THE COURT: Anything else? Any response?

10 MR. ATTORNEY: Oh ...

11 Q Outside the area of speculation, could you tell us
12 how sound would travel under those conditions?

13 A At this point in time the inversion would not be
14 well developed and so sound could travel pretty
15 much freely in any direction, maybe a little bit
16 more in the valley area because of the beginning
17 of the inversion. But wouldn't be sharp enough to
18 stop any sound movement.

19 Q Okay.

20 MR. ATTORNEY: I have no further questions.

21 MR. ATTORNEY: Thank you.

22

23 **CROSS EXAMINATION:**

24 BY: MR. ATTORNEY NAME

25

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 Q Afternoon, WITNESS #2 NAME. Gonna ask you a couple
2 things here.

3 A Sure.

4 Q The records that you were working from, whose
5 records are those?

6 A Those are the government's records, National
7 Weather Service takes them. These were from
8 Standiford Field. They are compiled by the
9 National Climate Data Center in Asheville, North
10 Carolina, and that's where they're from. They are
11 published in what's called the Local Climate to
12 Logical Data, which is a government publication.

13 Q And the, let's see, what's the altitude at
14 Standiford Field, where those temperatures would
15 have been collected?

16 A I believe they, I think they list it as like, it's
17 four hundred seventy-seven feet above sea level, I
18 believe is the, let's see if I've got the actual.
19 Okay, well, four -- no, they changed it, four
20 hundred eighty-one feet above sea level.

21 Q All right. Landfill.

22 A Well, actually they, what they, well, the last
23 decade, the modernization of the National Weather
24 Service actually moved the-the recording site.

25

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 Q All right.

2 A It's right in the middle of the two runways. When
3 they rebuilt the airport they moved it so it must
4 have been four feet higher then it was before.

5 Q All right. Are you familiar with the altitude out
6 in the Georgetown area where we're talking about?

7 A I'm not, I know it's higher. Exactly how much
8 above sea level, I'm not sure.

9 Q Would that ...

10 A It's probably over a thousand feet.

11 Q Would that count for the couple degrees variance
12 in temperature you were talking about?

13 A Partially, and the other is simply what's referred
14 to as the urban heat island, large metropolitan
15 areas, people, cars, industry, generate heat and
16 when you get away from that the temperature is,
17 too cool.

18 Q Is there anyway you can look at the records that
19 you have to determine whether or not, there would
20 have been an inversion in the Georgetown area
21 during the times that we've talked about back on
22 September 28, 2000?

23 A Unfortunately we don't, we do not take vertical
24 measurements of the atmosphere here. So to
25

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 actually precisely say there definitely was an
2 inversion and where it was, you just have to go
3 from experience as to what the weather conditions
4 were and would see one beginning to form.

5 Q Okay. So when you were talking about speculation
6 a little bit ago, that's, you know, that's what
7 you were talking about, it's be hard to say?

8 A Well, it's almost a sure thing an inversion was
9 beginning to form at that --

10 Q Uh-huh.

11 A -- point because of the relatively calm
12 conditions. Mostly clear skies by that time, but
13 the intensity of it, the depth of it, how high
14 above sea level.

15 Q Uh-huh.

16 A That part would be the part you couldn't answer.

17 Q All right. And would the data be different for
18 Standiford Field versus Georgetown on the
19 possibilities of inversions being created?

20 A Actually, it'd be more of a tenancy for an
21 inversion in Georgetown because of the, you're
22 cooler, you're away from the city heat --

23 Q Uh-huh.

24 A -- and that that nighttime cooling actually

25

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 accelerates in evening hours in suburban areas,
2 but not in city areas.

3 Q Okay. Thank you.

4 MR. ATTORNEY: That's all I have.

5 MR. ATTORNEY: That's all I have. Thank you.

6 THE COURT: Just a second. Thank you. You
7 may step down.

8 **WITNESS EXCUSED**

9

10 MR. ATTORNEY: Your Honor, the State calls
11 Trooper WITNESS NAME.

12 THE COURT: Raise your right hand. Do you
13 swear to tell the truth, the whole truth and
14 nothing but the truth, so help you God?

15 WITNESS: I do.

16 THE COURT: Be seated. Move up to the
17 microphone, please.

18

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IN THE
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APPELLATE NO:

JOHN DOE,
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VOLUME OF EXHIBITS

VOLUME I OF I

PAGES 1 to 25

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JANE THOMAS
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SEARCH WARRANT

[exhibit retained in the _____ Superior Court
Evidence cabinet]

STATE'S EXHIBIT NO. 1 --- 11/12/02 --- J.T.

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ORDER OF PROBATION

[exhibit retained in the _____ Superior Court
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STATE'S EXHIBIT NO. 1 --- 1/22/03 --- J.T.

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19" TELEVISION

[exhibit retained in the _____ Superior Court
Evidence cabinet]

STATE'S EXHIBIT NO. 2 --- 1/22/03 --- J.T.

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[illegible]

EXHIBITS

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WITNESS AND EXHIBIT LIST

Case Name: _____

Cause Number: _____

Hearing: _____

Date: _____

WITNESS	PARTY	DIRECT/CROSS	EXH #	DESCRIPT	IDENT	ADM	TRANS PG
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